

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION

UNITED STATES OF AMERICA

VERSUS

CRIMINAL NO. 1:03cr84WJG-JMR

TINA PHAN

ORDER

This cause comes before the Court on the motion [69-1] of the Defendant, Tina Phan, to modify her sentence [69-1], which the Court shall construe as a motion for sentence reduction pursuant to Rule 35 of the Federal Rules of Criminal Procedure. Phan pleaded guilty to Counts 1 and 2 of a 3-count indictment charging her with conspiracy to launder money that had been represented to her as drug proceeds in violation of 18 U.S.C. § 1956(h) and calling for forfeiture of certain property pursuant to 18 U.S.C. § 982 on May 18, 2004, following one day of an estimated three-day jury trial. (Ct. R., Docs. 45, 58.) She was sentenced to 41 months imprisonment, 2 years supervised release, a \$100 mandatory special assessment and a \$50,000 fine. (Ct. R., Doc. 59.)

Phan requests that this Court should reduce her sentence because there is “no benefit either to society, nor to Defendant’s rehabilitation, served by her continuing confinement in Mariana Federal Women’s Work Camp.” (Ct. R., Doc. 69, p. 2.) She asserts that she has fulfilled all her education requirements and earned excellent behavior and work reports. (*Id.*, p. 2.) She indicates that she has paid her fine in full and accepted responsibility for her actions. (*Id.*, p. 2.) She asserts that all her personal belongings were washed away during Hurricane

Katrina. (*Id.*) Her investments on Highway 90 were 80% destroyed in the storm. (*Id.*) Her son relocated to another state and her husband died on December 26, 2006. (*Id.*)

However unfortunate and unsettling the events of the past year have been to Phan and many others living along the Mississippi Gulf Coast, these circumstances do not provide any grounds for reduction of the sentence. Although the Court has the deepest of sympathy for Phan's circumstances and congratulates her behavior, these factors are not sufficient to warrant a sentence reduction. *See United States v. Akin*, 62 F.3d 700, 703 (5th Cir. 1995); *United States v. O'Brien*, 950 F.2d 969, 971 n.1 (5th Cir. 1991). It is, therefore,

ORDERED AND ADJUDGED that the Defendant's motion to modify her sentence [69-1] be, and is hereby, denied.

SO ORDERED AND ADJUDGED this the 13th day of September, 2006.

Walter J. Gex III

UNITED STATES SENIOR DISTRICT JUDGE